

DANIEL S. SILVERMAN (State Bar No. 137864)

dsilverman@roll.com

J. P. PECHT (State Bar No. 233708)

ROLL LAW GROUP P.C.

11444 W. Olympic Boulevard, 10th Floor

Los Angeles, California 90064-1557

Telephone: 310-966-8400

Facsimile: 310-966-8810

Attorneys for Plaintiffs CAL PURE PISTACHIOS, INC. and PARAMOUNT FARMS, INC.

WALTER W. WHELAN (SBN 106655)

walt@wwhelan-law.com

BRIAN D. WHELAN (SBN 256534)

brian@wwhelan-law.com

LAW OFFICES OF WALTER W. WHELAN

A Professional Corporation

7447 North First Street, Suite 201

Fresno, California 93720

Telephone: (559) 437-1079

Facsimile: (559) 437-1720

Attorneys for Defendants PRIMEX FARMS, LLC and ALI AMIN, JR.

SMILAND & CHESTER

WILLIAM M. SMILAND (SB# 041928)

wsmiland@smilandlaw.com

THEODORE A. CHESTER, JR. (SB#105405)

tchester@smilandlaw.com

601 West Fifth Street, Suite 700

Los Angeles, California 90071

Telephone: (213) 891-1010

Facsimile: (213) 891-1414

Attorneys for Defendant BRAD GLEASON

NOTE CHANGES MADE BY THE COURT.

**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

CAL PURE PISTACHIOS, INC., a  
California corporation, and  
PARAMOUNT FARMS, INC., a  
Delaware corporation,

Plaintiffs,

v.

PRIMEX FARMS, LLC, a California  
limited liability company, ALI AMIN,  
JR., an individual, BRAD GLEASON,  
an individual, and DOES 1 through 10,  
inclusive,

Defendants.

Case No. 2:09-CV-7874 GW (RCx)  
[Hon. George H. Wu]

**STIPULATED ~~PROPOSED~~  
PROTECTIVE ORDER**

Trial Date: None Set  
Complaint Filed: October 28, 2009  
FAC Filed: January 27, 2010

{042846.2}

**CASE NO. 2:09-CV-7874 GW (RCx)**

**STIPULATED [PROPOSED] PROTECTIVE  
ORDER**

1 The Parties have stipulated to the entry of this protective order (the  
 2 "Stipulated Protective Order" or "Order") governing the exchange and use of  
 3 confidential and highly confidential documents and information in discovery as  
 4 follows:

5 GOOD CAUSE STATEMENT OF THE PARTIES

6 WHEREAS, in the above-captioned action (the "Action"), Plaintiffs Cal  
 7 Pure Pistachios, Inc. and Paramount Farms, Inc. (collectively, "Plaintiffs") have  
 8 brought claims against Primex Farms, LLC, Ali Amin, Jr. and Brad Gleason  
 9 (collectively "Defendants") for false advertising under the Lanham Act as well as  
 10 intentional and negligent interference with prospective economic advantage.

11 WHEREAS, Plaintiffs and Defendants (collectively, the "Parties" or  
 12 individually, a "Party") expect that the disclosure and discovery activity in this  
 13 Action is likely to involve production of competitively sensitive, confidential,  
 14 and/or proprietary information for which special protection from public disclosure  
 15 and from use for any purpose other than prosecuting or defending this litigation  
 16 may be warranted. Such information is anticipated to include, among other things,  
 17 the Parties' forward looking plans and strategies, analyses of competitive markets,  
 18 and the identity and characteristics of the Parties' vendors, growers and/or  
 19 customers, which is information to which third parties would not otherwise have  
 20 access. Allowing a Party or third party to use such competitively sensitive  
 21 information would cause harm to the competitive position of the disclosing Party.  
 22 Accordingly, the Parties seek entry of this Stipulated Protective Order to prevent  
 23 the unauthorized use or dissemination of confidential information produced in  
 24 discovery during this litigation.

25 WHEREAS, the Parties acknowledge that this Stipulated Protective Order  
 26 does not affect the burden of proof that must be met by a Party seeking to protect  
 27 confidential documents or information that is filed in the court records in this  
 28 Action. A Party seeking to protect information to be filed in the public records

1 must prove that the documents or information meets the standards set forth in  
 2 *Pintos v. Pacific Creditors Association*, 565 F.3d 1106 (9th Cir. 2009) and/or other  
 3 relevant authority. In meeting that burden, a Party may not rely on its own  
 4 designation of material as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
 5 ATTORNEYS’ EYES ONLY” under the terms of this Stipulated Protective Order.

6 WHEREAS, the Parties acknowledge that this Stipulated Protective Order  
 7 does not restrict the use of any document or information at trial in any manner  
 8 whatsoever (including information designated as “CONFIDENTIAL” or  
 9 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under this  
 10 Stipulated Protective Order), and, if and when the case proceeds to trial, good  
 11 cause must be demonstrated to the Court in order to protect any such document or  
 12 information from disclosure.

13 WHEREAS, the Parties acknowledge that this Stipulated Protective Order  
 14 does not entitle them to file confidential information under seal, and that the  
 15 relevant civil rules and Local Rule 79-5 set forth the procedures that must be  
 16 followed and the standards that will be applied when a Party seeks permission from  
 17 the court to file material under seal.

18 WHEREAS, except as otherwise provided herein, the Parties agree that this  
 19 Stipulated Protective Order does not impose any restrictions on the use or  
 20 disclosure by a Party of material obtained by such Party independent of discovery  
 21 in this Action, whether or not such material is also obtained through discovery in  
 22 this Action, or from the use or disclosure of information that is publicly known.  
 23 Further, nothing in this Stipulated Protective Order restricts the ability of any Party  
 24 to use or disclose its own confidential material as it deems appropriate.

25 WHEREAS, the Parties agree that no document, information or thing shall  
 26 be designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
 27 ATTORNEYS’ EYES ONLY”, as respectively defined below, unless good cause  
 28 exists for such designation under the standards set forth in *Pintos v. Pacific*

1 *Creditors Association*, 565 F.3d 1106 (9th Cir. 2009) and/or other relevant  
2 authority.

3 WHEREAS, the Parties intend that this Stipulated Protective Order provide  
4 reasonable restrictions on the disclosure of confidential information and will  
5 promote a free exchange of documents and information, diminish involvement of  
6 the Court in discovery proceedings, and move the case along more rapidly and at  
7 less cost.

8 NOW, THEREFORE, pursuant to Rule 26(c) of the Federal Rules of Civil  
9 Procedure, and with the consent of the Parties, and for good cause shown as  
10 reflected in the recitals hereto,

11 IT IS HEREBY ORDERED:

12 1. DEFINITIONS

13 1.1 Challenging Party: a Party or non-party that challenges the  
14 designation of information or items under this Order.

15 1.2 "CONFIDENTIAL" Information or Items: information  
16 (regardless of how it is generated, stored or maintained) or tangible things that  
17 qualify for protection under Federal Rule of Civil Procedure 26(c). Good cause  
18 exists for the designation of information as "CONFIDENTIAL" when the  
19 information has not been revealed to the public and the information falls into one  
20 of the following categories: (a) the information is contained in a document or is  
21 presented in a form that, when analyzed in conjunction with other information  
22 produced in the Action, would reveal information in categories set forth in  
23 paragraph 1.7 below; (b) private information about any officer, employee or other  
24 individual; and/or (c) commercially sensitive information regarding the  
25 development, production, marketing, branding, sales or promotion of an entity's  
26 products, services or finances, the disclosure of which would have the effect of  
27 causing harm to, or could potentially harm, the competitive position of the person  
28 or entity from which the information is obtained.

1.3 Counsel: the counsel of record for each respective Party (as well as their respective support staff).

1.4 Designating Party: a Party or non-party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

1.5 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, documents, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

1.6 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this action.

1.7 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items: extremely sensitive “CONFIDENTIAL” Information or Items, disclosure of which to another Party or non-party would create a substantial risk of serious harm that could not be avoided by less restrictive means. Good cause exists for the designation of information as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” when the information or items subject to such designation have not been made public and fall into one of the following categories: (a) confidential business, marketing or sales plans, including specific business plans, strategies and projections, marketing plans and strategies, sales plans and strategies, pricing strategies, the development of new product concepts, extensions of existing product lines, and other similar information that is kept confidential by the Party; (b) specific financial information at a level of detail beyond that disclosed in sources available to the public; (c) results of research, studies or other complex analyses that would be useful to current or potential

competitors, including, among other things, complex market analyses provided by third parties under contracts with non-disclosure clauses and analyses of other competitors in the market; (d) terms of contracts with the Parties' suppliers or customers that could be used by current or potential competitors in their own negotiations with suppliers or customers; and (e) lists of current customers or pistachio growers that could be used by current or potential competitors to the competitive disadvantage by a disclosing Party.

1.8 Non-party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

1.9 Party: any Party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Counsel.

1.10 Producing Party: a Party or non-party that produces Disclosure or Discovery Material in this action.

1.11 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

1.12 Protected Material: any Disclosure or Discovery Material that is designated as "CONFIDENTIAL," or as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

1.13 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

## 2. SCOPE

The protections conferred by this Order cover not only Protected Material, but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material. However, the protections conferred by this Order do not



1 cover any information that is in the public domain at the time of disclosure to a  
 2 Receiving Party or becomes part of the public domain after its disclosure to a  
 3 Receiving Party as a result of publication not involving a violation of this Order.

### 4 3. DURATION

5 Even after final disposition of this litigation, the confidentiality obligations

6 imposed by this Order shall remain in effect until a Designating Party agrees  
 7 otherwise in writing or a court order otherwise directs. Final disposition shall be  
 8 deemed to be the later of (1) dismissal of all claims and defenses in this action,  
 9 with or without prejudice; and (2) final judgment herein after the completion and  
 10 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,  
 11 including the time limits for filing any motions or applications for extension of  
 12 time pursuant to applicable law. *However, The district court does not*  
 13 *retain jurisdiction to enforce this Order after judgment is entered*  
 14 *of the case is dismissed.*

### 4. DESIGNATING PROTECTED MATERIAL

14 4.1 Exercise of Restraint and Care in Designating Material for  
 15 Protection. Each Party or non-party that designates information or items for  
 16 protection under this Order must take care to limit any such designation to specific  
 17 material that qualifies under the appropriate standards and shall use reasonable  
 18 efforts to minimize the amount of material designated as "CONFIDENTIAL" or  
 19 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY". To the extent it is  
 20 practical to do so, the Designating Party must designate for protection only those  
 21 parts of material, documents, items, or oral or written communications that qualify  
 22 – so that other portions of the material, documents, items, or communications for  
 23 which protection is not warranted are not swept unjustifiably within the ambit of  
 24 this Order.

25 Mass, indiscriminate, or routine designations are prohibited. Designations  
 26 that are shown to be clearly unjustified or that have been made for an improper  
 27 purpose (e.g., to unnecessarily encumber or retard the case development process or  
 28 to impose unnecessary expenses and burdens on other Party) expose the

1 Designating Party to sanctions, (including, without limitation, monetary,  
 2 evidentiary, issue or terminating sanctions, in the Court's discretion), as well as  
 3 being potentially subject to any disciplinary or other applicable legal proceedings.

4 If it comes to a Designating Party's attention that information or items that it  
 5 ~~designated for protection do not qualify for protection at all or do not qualify for~~  
 6 the level of protection initially asserted, that Designating Party must promptly  
 7 notify all other Parties that it is withdrawing the mistaken designation.

8 4.2 Manner and Timing of Designations. Except as otherwise  
 9 provided in this Order, or as otherwise ordered by the Court, Disclosure or  
 10 Discovery Material that qualifies for protection under this Order must be clearly so  
 11 designated before the material is disclosed or produced.

12 (a) For information in documentary form (*e.g.*, paper, tiff images, or in any  
 13 other form, electronic or otherwise, in which it is possible to add a legend to each  
 14 page), but excluding transcripts of depositions or transcripts of other pretrial or  
 15 trial proceedings, designation in conformity with this Stipulated Protective Order  
 16 requires that the Producing Party affix the legend "CONFIDENTIAL, SUBJECT  
 17 TO PROTECTIVE ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS'  
 18 EYES ONLY, SUBJECT TO PROTECTIVE ORDER" to each page that contains  
 19 protected material, provided that a designation may be made on the first page of  
 20 the document which specifies that the entire document (or specific pages thereof)  
 21 is protected. If only a portion or portions of the material on a page qualifies for  
 22 protection, the Producing Party also must clearly identify the protected portion(s)  
 23 (*e.g.*, by making appropriate markings in the margins) and must specify, for each  
 24 portion, the level of protection being asserted. Electronic documents produced as  
 25 .tiff images shall be marked in accordance with this paragraph 4.2(a).

26 A Party or Non-Party that makes original documents or materials available  
 27 for inspection need not designate them for protection until after the inspecting  
 28 Party has indicated which material it would like copied and produced. During the



1 inspection and before the designation, all of the material made available for  
 2 inspection shall be deemed "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
 3 ONLY." After the inspecting Party has identified the documents it wants copied  
 4 and produced, the Producing Party must determine which documents, or portions  
 5 thereof, qualify for protection under this Order. Then, before producing the  
 6 specified documents, the Producing Party must affix the appropriate legend  
 7 "CONFIDENTIAL, SUBJECT TO PROTECTIVE ORDER" or "HIGHLY  
 8 CONFIDENTIAL – ATTORNEYS' EYES ONLY, SUBJECT TO PROTECTIVE  
 9 ORDER") to each page that contains Protected Material. If only a portion or  
 10 portions of the material on a page qualifies for protection, the Producing Party also  
 11 must clearly identify the protected portion(s) (e.g., by making appropriate  
 12 markings in the margins) and must specify, for each portion, the level of protection  
 13 being asserted.

14 (b) With respect to deposition testimony or other oral testimony to be  
 15 recorded in a written transcript, the Designating Party may designate information  
 16 as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" by making a statement  
 17 on the record to that effect during the deposition or proceeding at issue.

18 Alternatively, the Designating Party may, within a reasonable time after the  
 19 deposition transcript is delivered to the Designating Party, provide to all counsel  
 20 written notice identifying the specific portion (by page and line numbers) that the  
 21 Designating Party seeks to protect, and all Parties to this Action will mark the  
 22 pages with the appropriate legends.

23 A Party shall give all other Parties notice if they reasonably expect a  
 24 deposition, hearing or other proceeding to include Protected Material so that the  
 25 other Parties can ensure that only authorized individuals who have signed the  
 26 "Acknowledgment and Agreement to Be Bound" (Exhibit A) are present at those  
 27 proceedings. The use of a document as an exhibit at a deposition shall not in any  
 28

1 way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL  
2 – ATTORNEYS’ EYES ONLY.”

3 Transcripts containing Protected Material shall have an obvious legend on  
4 the title page that the transcript contains Protected Material, and the title page shall  
5 be followed by a list of all pages (including line numbers as appropriate) that have  
6 been designated as Protected Material and the level of protection being asserted by  
7 the Designating Party. The court reporter shall separately bind the designated  
8 portion of the deposition transcript and all designated exhibits. The separately  
9 bound deposition material shall be marked in accordance with its designation, as  
10 either “CONFIDENTIAL, SUBJECT TO PROTECTIVE ORDER” or “HIGHLY  
11 CONFIDENTIAL – ATTORNEYS’ EYES ONLY, SUBJECT TO PROTECTIVE  
12 ORDER.” The Designating Party shall inform the court reporter of these  
13 requirements.

14 (c) For information produced in some form other than documentary and for  
15 any other tangible items, including, without limitation, video or audio tape,  
16 computer discs, CD-ROMS, and DVDs, etc., designation in conformity with this  
17 Order requires that the Producing Party affix in a prominent place on the exterior  
18 of the container or containers in which the information or item is stored the legend  
19 “CONFIDENTIAL, SUBJECT TO PROTECTIVE ORDER” or “HIGHLY  
20 CONFIDENTIAL – ATTORNEYS’ EYES ONLY, SUBJECT TO PROTECTIVE  
21 ORDER”. If only a portion or portions of the information or item warrant  
22 protection, the Producing Party, to the extent practicable, shall identify the  
23 protected portion(s) and specify the level of protection being asserted.

24 4.3 Inadvertent Failures to Designate. If timely corrected, an  
25 inadvertent failure to designate qualified information or items does not, standing  
26 alone, waive the Designating Party’s right to secure protection under this Order for  
27 such material. Upon timely correction of a designation, the Receiving Party must  
28

1 make reasonable efforts to assure that the material is treated in accordance with the  
2 provisions of this Order.

3 5. CHALLENGING CONFIDENTIALITY DESIGNATIONS

4 5.1 A party may challenge the designation of any material as  
5 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
6 ONLY” under this Order under the procedures set forth in Local Rules 37-1  
7 through 37-4. If the Parties are unable to resolve the issue informally pursuant to  
8 37-1, the Challenging Party may move for an order granting access to the  
9 information under less burdensome conditions pursuant to the procedures set forth  
10 in Local Rule 37-2 through 37-4. In making or opposing any motion relating to the  
11 designation of confidential information, the Party seeking to maintain a document  
12 as confidential shall bear the burden of showing good cause therefor.

13 5.2 This Order is without waiver of or prejudice to, and specifically  
14 reserves the rights and remedies of any party to apply in writing to the Court for a  
15 determination, for good cause shown, that (a) persons not provided for in this  
16 Order may or may not receive “CONFIDENTIAL” or “HIGHLY  
17 CONFIDENTIAL” information; or (b) this Order be modified or vacated. Any  
18 application for relief pursuant to this section shall be made only after reasonable  
19 efforts to meet and confer in good faith have been unsuccessful, and must comply  
20 with Local Rules 37-1 to 37-4 or other applicable rule.

21 6. ACCESS TO AND USE OF PROTECTED MATERIAL

22 6.1 Basic Principles. A Receiving Party may use Protected Material  
23 (or information solely derived from Protective Material) that is disclosed or  
24 produced by another Party or by a non-party in connection with this case only for  
25 prosecuting, defending, or attempting to settle this litigation. Such Protected  
26 Material may be disclosed only to the categories of persons and under the  
27 conditions described in this Order. When the litigation has been terminated, a  
28 Receiving Party must comply with the provisions of section 15 below (FINAL

DISPOSITION). A party using, disseminating or distributing Protected Material for any purpose other than for use in connection with this Action may be subject to sanctions (including, without limitation, monetary, evidentiary, issue or terminating sanctions, in the Court's discretion), as well as being potentially subject to any disciplinary or other applicable legal proceedings.

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

6.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "CONFIDENTIAL" only to:

(a) the Receiving Party's Counsel in this action, as well as paralegal and support staff (whether employees or independent contractors) of said Counsel to whom it is reasonably necessary to disclose the information for this litigation;

(b) the officers, directors, and employees of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(d) the Court and its personnel;

(e) court reporters and their staff, videographers, professional jury or trial consultants, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the "Acknowledgment and Agreement

1 to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or  
2 ordered by the Court.

3 (g) the author or recipient of a document containing the information or a  
4 custodian or other person who otherwise possessed or knew the information.

5 6.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
6 ONLY” Information or Items. Unless otherwise ordered by the Court or permitted  
7 in writing by the Designating Party, a Receiving Party may disclose any  
8 information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’  
9 EYES ONLY” only to:

10 (a) the Receiving Party’s Counsel in this action, as well as paralegal and  
11 support staff (whether employees or independent contractors) of said Counsel to  
12 whom it is reasonably necessary to disclose the information for this litigation. Roll  
13 Law Group P.C. hereby represents that it is not owned or controlled by any  
14 affiliate of Roll International Corp., or any of the parties to this litigation, and that  
15 each lawyer of Roll Law Group P.C. that will perform any legal work with respect  
16 to this Action has not, does not, and does not anticipate having any involvement  
17 whatsoever in any party’s competitive or business decision making, including but  
18 not limited to decisions regarding contracts, marketing, purchasing, employment,  
19 pricing, product design, product research or development, and has not, does not,  
20 and will not provide advice to any party regarding any such decisions;

21 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably  
22 necessary for this litigation and (2) who have signed the “Acknowledgment and  
23 Agreement to Be Bound” (Exhibit A). However, any information or item  
24 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” shall  
25 not be disclosed to any Expert who is expected to provide any services to any  
26 business unit of the retaining Party, unless the previous two requirements above are  
27 met and one of the three following conditions is met: (i) The Expert previously  
28 created, generated or received the information or item designated “HIGHLY

CONFIDENTIAL – ATTORNEYS’ EYES ONLY” before the Action commenced; or (ii) before disclosure of the information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” counsel for the Parties agree that the information or item may be shown to the expert; or (3) the Court has determined that the information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” may be shown to the Expert in ruling on a Party’s objection pursuant to Local Rule 37.

(c) the Court and its personnel;

(d) court reporters and their staff, videographers, professional jury or trial consultants, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the Court; or

(e) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

7. PROTECTED MATERIAL SUBPOENAED OR ORDERED  
PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena

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1 or order is subject to this Stipulated Protective Order. Such notification shall  
2 include a copy of this Stipulated Protective Order; and

3 (c) cooperate with respect to all reasonable procedures sought to be pursued  
4 by the Designating Party whose Protected Material may be affected.

5 ~~If the Designating Party timely seeks a protective order, the Party served~~  
6 ~~with the subpoena or court order shall not produce any information designated in~~  
7 ~~this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –~~  
8 ~~ATTORNEYS' EYES ONLY" before a determination by the court from which the~~  
9 ~~subpoena or order issued, unless the Party has obtained the Designating Party's~~  
10 ~~permission. The Designating Party shall bear the burden and expense of seeking~~  
11 ~~protection in that court of its confidential material – and nothing in these~~  
12 ~~provisions should be construed as authorizing or encouraging a Receiving Party in~~  
13 ~~this action to disobey a lawful directive from another court.~~

14 8. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE  
15 PRODUCED IN THIS LITIGATION

16 (a) The terms of this Order are applicable to information produced by a non-  
17 party in this action and designated as "CONFIDENTIAL, SUBJECT TO  
18 PROTECTIVE ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
19 ONLY, SUBJECT TO PROTECTIVE ORDER". Such information produced by  
20 non-parties in connection with this Action is protected by the remedies and relief  
21 provided by this Order. Nothing in these provisions should be construed as  
22 prohibiting a non-party from seeking additional protections.

23 (b) In the event that a Party is required, by a valid discovery request, to  
24 produce a non-party's confidential information in its possession, and the Party is  
25 subject to an agreement with the non-party not to produce the non-party's  
26 confidential information, then the Party shall:  
27  
28

1 (1) promptly notify in writing the Requesting Party and the non-party  
2 that some or all of the information requested is subject to a confidentiality  
3 agreement with a non-party;

4 (2) promptly provide the non-party with a copy of the Stipulated  
5 Protective Order in this litigation, the relevant discovery request(s), and a  
6 reasonably specific description of the information requested; and

7 (3) make the information requested available for inspection by the  
8 non-party.

9 (c) If the non-party fails to object or seek a protective order from this Court  
10 within 14 days of receiving the notice and accompanying information, the  
11 Receiving Party may produce the non-party's confidential information responsive  
12 to the discovery request. If the non-party timely seeks a protective order, the  
13 Receiving Party shall not produce any information in its possession or control that  
14 is subject to the confidentiality agreement with the non-party before a  
15 determination by the court. Absent a Court order to the contrary, the non-party  
16 shall bear the burden and expense of seeking protection in this court of its  
17 Protected Material.

18 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

19 9.1 No person or entity receiving "CONFIDENTIAL" information shall  
20 discuss, disseminate, or disclose the "CONFIDENTIAL" information to any  
21 person or entity not listed above in paragraph 6.2. No person or entity receiving  
22 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" information shall  
23 discuss, disseminate, or disclose the "HIGHLY CONFIDENTIAL –  
24 ATTORNEYS' EYES ONLY" information to any person or entity not listed above  
25 in paragraph 6.3. Any person or entity receiving Protected Material shall take  
26 measures available to him or her to ensure that no unauthorized person or entity is  
27 able to obtain access to the Protected Material. The provisions of this paragraph,  
28 however, do not apply to the Court or to Court personnel.

1           9.2 If a Receiving Party learns that, by inadvertence or otherwise, it has  
 2 disclosed Protected Material to any person or in any circumstance not authorized  
 3 under this Stipulated Protective Order, the Receiving Party must immediately (a)  
 4 notify in writing the Designating Party of the unauthorized disclosures, (b) use its  
 5 best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform  
 6 the person or persons to whom unauthorized disclosures were made of all the terms  
 7 of this Order, and (d) request such person or persons to execute the  
 8 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit  
 9 A.

10           10. INADVERTENT PRODUCTION OF PRIVILEGED OR  
 11 OTHERWISE PROTECTED MATERIAL – NO WAIVER

12           10.1 The disclosure of Protected Material pursuant to discovery or the  
 13 procedures set forth in this Order shall not constitute a waiver of any trade secret or  
 14 any intellectual property, proprietary privacy or other rights to or in such  
 15 information.

16           10.2 The inadvertent disclosure of information protected by the attorney-  
 17 client, work product, or other applicable privilege or protection in this Action shall  
 18 not constitute a waiver of any valid claim of privilege. Further, failure to assert a  
 19 privilege in this Action as to one document or communication shall not be deemed  
 20 to constitute a waiver of the privilege as to any other document or communication  
 21 allegedly so protected, even involving the same subject matter, unless the  
 22 Producing Party seeks to use or rely upon the privileged material in this Action. A  
 23 Party that discovers that it has inadvertently produced privileged information shall  
 24 promptly request its return. The privileged documents together with all copies  
 25 thereof shall be returned forthwith to the party claiming privilege. Any notes or  
 26 other work product made from the documents in question (or their contents) shall  
 27 be returned along with the documents themselves or destroyed pursuant to  
 28 paragraph 10.3 below. The Party claiming privilege shall thereafter promptly

1 produce a privilege log listing the documents in question and any other party shall  
2 thereafter have the right to challenge the assertion of privilege by motion or any  
3 other appropriate means.

4 10.3 A Party who receives apparently privileged material from the  
5 producing party, upon understanding that the document may be privileged or  
6 contain confidential attorney work product, must act as follows:

7 (a) Cease review of the document.

8 (b) Immediately notify opposing counsel by phone and e-mail of the  
9 potentially privileged document, taking all reasonable measures to reach opposing  
10 counsel. The reviewer must follow such counsel's instructions regarding the  
11 disposition of the material. The reviewer must also completely refrain from using  
12 the material until instruction by opposing counsel is received, which may include  
13 returning the document and all copies, and removal of the document from  
14 electronic databases with confirmation by the producing Party.

15 (c) Until such time that the review receives instructions from opposing  
16 counsel, the reviewer may not share the document or its contents with other  
17 persons. The review may notify supervising attorneys that a potentially privileged  
18 document may exist, without sharing its contents, and otherwise advise them or  
19 receive advice from them regarding the circumstances.

20 (d) If the producing Party claims the privilege it shall thereafter promptly  
21 add the document(s) in question to its privilege log and any other party shall  
22 thereafter have the right to challenge the assertion of privilege by motion or any  
23 other appropriate means.

24 11. MISCELLANEOUS

25 11.1 Right to Further Relief. Nothing in this Order abridges the right of any  
26 person to seek its modification by the court in the future.

27 11.2 Right to Assert Other Objections. By stipulating to the entry of this  
28 Stipulated Protective Order no Party waives any right it otherwise would have to

1 object to disclosing or producing any information or item on any ground not  
 2 addressed in this Stipulated Protective Order. Similarly, no Party waives any right  
 3 to object on any ground to use in evidence any of the material covered by this  
 4 Protective Order.

5 11.3 Filing Protected Material.

6 (a) Without written permission from the Designating Party or a Court order  
 7 secured after appropriate notice to all interested persons, a Receiving Party may  
 8 not file in any pre-trial proceeding in this Action in the public record any Protected  
 9 Material. A Receiving Party that seeks to file under seal any Protected Material  
 10 must comply with Local Rule 79-5. Such filings must be in accordance with the  
 11 standards set forth in *Kamakana v. City & County of Honolulu*, 447 F.3d 1172,  
 12 1178-81 (9th Cir. 2006). If a party files or seeks to file with the Court material that  
 13 another party has designated "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL  
 14 – ATTORNEYS' EYES ONLY" under this Order, the filing Party shall  
 15 simultaneously file an application to seal the records pursuant to Local Rule 79-5  
 16 that references this Order and that specifically sets forth the terms of this  
 17 paragraph. In doing so, the filing Party shall only seek to file under seal the  
 18 portion of such material that is "CONFIDENTIAL" or "HIGHLY  
 19 CONFIDENTIAL – ATTORNEYS' EYES ONLY." An application which seeks  
 20 to file materials under seal in proceedings before the district judge will be made to  
 21 the district judge.

22 (b) Within five business days after service of the application to seal (or  
 23 within such other time as may be ordered by the Court), the Designating Party  
 24 must either: (i) inform the recipient Party that it does not object to the filing of the  
 25 information in the public record, at which point the filing party must withdraw the  
 26 application; or (ii) file papers in support of the application setting forth the factual  
 27 and legal basis for the request to seal the records. The Designating Party bears the  
 28 burden of proving that the materials meet the standards for sealing the records as

1 set forth in *Pintos v. Pacific Creditors Association*, 565 F.3d 1106 (9th Cir. 2009)  
 2 and/or other relevant authority. In meeting that burden, a Party may not rely on its  
 3 own designation of material as “CONFIDENTIAL” or “HIGHLY  
 4 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

5 12. FINAL DISPOSITION

6 Within 60 days after the final disposition of this Action, as defined in  
 7 paragraph 3, each Receiving Party must return all Protected Material to the  
 8 Producing Party or destroy such material. As used in this subdivision, “all  
 9 Protected Material” includes all copies, abstracts, compilations, summaries, and  
 10 any other format reproducing or capturing any of the Protected Material. Whether  
 11 the Protected Material is returned or destroyed, the Receiving Party must submit a  
 12 written certification to the Producing Party (and, if not the same person or entity, to  
 13 the Designating Party) by the 60 day deadline that (1) identifies (by category,  
 14 where appropriate) all the Protected Material that was returned or destroyed and  
 15 (2) affirms that the Receiving Party has not retained any copies, abstracts,  
 16 compilations, summaries or any other format reproducing or capturing any of the  
 17 Protected Material. Notwithstanding this provision, Counsel are entitled to retain  
 18 an archival copy of all pleadings, motion papers, trial, deposition, and hearing  
 19 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert  
 20 reports, attorney work product, and consultant and expert work product, even if  
 21 such materials contain Protected Material. Any such archival copies that contain or  
 22 constitute Protected Material remain subject to this Protective Order as set forth in  
 23 Section 3 (DURATION).



1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2

3 DATED: November 10, 2010

ROLL LAW GROUP P.C.

4

By: /S/ J.P. Pecht

5

J.P. Pecht

6

Attorneys for Plaintiffs CAL PURE  
PISTACHIOS, INC. and PARAMOUNT  
FARMS, INC.

7

8

9

10 DATED: November 10, 2010

LAW OFFICES OF WALTER W. WHELAN

11

12

By: /S/ Walter W. Whelan

13

Walter W. Whelan

14

Attorneys for Defendants Primex Farms,  
LLC and Ali Amin, Jr.

15

16

DATED: November 10, 2010

SMILAND & CHESTER

17

18

By: /S/ Theodore A. Chester, Jr.

19

Theodore A. Chester, Jr.

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Attorneys for Defendant Brad Gleason

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22

23 PURSUANT TO STIPULATION, IT IS SO ORDERED, *as amended*  
24 *in para. 3.*

25

26 DATED: Nov. 15, 2010

  
HON. ROSALYN M. CHAPMAN,  
United States Magistrate Judge

27

28

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
 \_\_\_\_\_ [print or type full address], declare under penalty of perjury  
 that I have read in its entirety and understand the Stipulated Protective Order that  
 was issued by the United States District Court for the Central District of California  
 on \_\_\_\_ [Insert Date] in the case of Cal Pure Pistachios, Inc. and Paramount Farms,  
Inc. v. Primex Farms, LLC et al., United States District Court, Central District of  
 California, Case No. 2:09-CV-7874 GW (RCx).

I understand the responsibilities and obligations the Stipulated Protective  
 Order imposes on me regarding “**CONFIDENTIAL**” or “**HIGHLY**  
**CONFIDENTIAL – ATTORNEYS’ EYES ONLY**” information I obtain in this  
 action.

I agree to comply with and to be bound by all the terms of this Stipulated  
 Protective Order and I understand and acknowledge that failure to so comply could  
 expose me to penalties and/or sanctions and punishment in the nature of contempt.  
 I solemnly promise that I will not disclose in any manner any information or item  
 that is subject to this Stipulated Protective Order to any person or entity except in  
 strict compliance with the provisions of this Order.

I certify that (strike the inaccurate sections of this clause, if any):

(i) I did not receive any “**CONFIDENTIAL**” or “**HIGHLY**  
**CONFIDENTIAL – ATTORNEYS’ EYES ONLY**” information before signing  
 this Exhibit A;

(ii) I meet all requirements for receipt of information and other  
 material designated as “**CONFIDENTIAL**” or “**HIGHLY CONFIDENTIAL –**  
**ATTORNEYS’ EYES ONLY**”, pursuant to the Stipulated Protective Order;

(iii) I am not directly employed by any Party to this Action;

1 (iv) I am not under contract with any Party to this Action for any  
2 purpose other than this Action.

3 I have received a copy of the Stipulated Protective Order, including an  
4 executed copy of this Exhibit A for my personal use and reference.

5 I further agree to submit to the jurisdiction of the United States District  
6 Court for the Central District of California for the purpose of enforcing the terms  
7 of this Stipulated Protective Order, even if such enforcement proceedings occur  
8 after termination of this action.

9 I hereby appoint \_\_\_\_\_ [print or type full name] of  
10 \_\_\_\_\_ [print or type full address and  
11 telephone number] as my California agent for service of process in connection with  
12 this action or any proceedings related to enforcement of this Stipulated Protective  
13 Order.

14 Date: \_\_\_\_\_

15 City and State where sworn and signed: \_\_\_\_\_

16 Printed name: \_\_\_\_\_

17 [printed name]

18 Signature: \_\_\_\_\_

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CASE NO. 2:09-CV-7874 GW (RCx)

STIPULATED [PROPOSED] PROTECTIVE  
ORDER

CERTIFICATE OF SERVICE

I, Theodore A. Chester, Jr., hereby certify that I have caused the foregoing to be served upon counsel of record through the Court's electronic service system.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 10, 2010

/S/ Theodore A. Chester, Jr.

Theodore A. Chester, Jr.